

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 311 OF 2020

1. Air India Ltd.,
Having its Registered Office at:
Airline House, 113, Gurudwara,
Rakabganj Road,
New Delhi – 110 001 &
Regional Office at Old Airport,
Kalina, Santacruz (E),
Mumbai – 400 029.
 2. Mr Mukesh Bhatia
Former Regional Director – Western Regional
Air India Ltd.,
Old Airport,
Santacruz (E),
Mumbai – 400 029.
- ... Applicants

Versus

1. Union of India
Through Labour Enforcement Officer (Central) I,
Shram Raksha Bhavan,
Shivshrusti Road,
Eastern Express Highway, Sion East,
Mumbai 400022.
2. The Dy Chief Labour Commissioner (Central)
Shram Raksha Bhavan,
Shivshrusti Road,
Eastern Express Highway, Sion East,
Mumbai 400022.

3. Capt.S.C.S.Adhikari
5th Floor, Khadayata Bhavan 213,
Rajaram Mohan Roy Road, Girgoan,
Mumbai – 400 004. ... Respondents

Mr Lancy D'souza, Advocate a/w Ms Heena Shaikh and Mr Rakesh Singh i/by M.V. Kini & Co. for the Applicants.

Mr Shreeram Shirsat, Advocate a/w Mr Shekhar Mane for Respondent Nos. 1 and 2.

Capt. S.C.S.Adhikari, Respondent No.3, present.

CORAM: R. N. LADDHA, J.

DATE : 3 OCTOBER 2023

P.C. :-

. Heard Mr Lancy D'souza, the learned Counsel for the Applicants, and Mr Shreeram Shirsat, the learned Counsel for Respondents No.1 and 2. Also heard Mr S.C.S. Adhikari, Respondent No.3, who is present in person.

2. Upon perusal of the Order dated 16 October 2018 passed in C.C.No.502860/SS/2018 by the learned Additional Chief Metropolitan Magistrate, 5th Court, Dadar, Mumbai ('impugned order'), it is apparent that the order of issuance of a process/impugned order is cryptic and unreasoned in a printed form.

3. The learned Magistrate has affixed a rubber stamp engraved

with the following words:

“ Order.
Complaint filed by complainant in person.
It be registered as summons case.
Sd/-
Addl. Chief Metropolitan Magistrate
5th court, Dadar, Mumbai

Heard complaint, Issue process.....
Sd/-
Addl. Chief Metropolitan Magistrate
5th Court, Dadar, Mumbai”

4. After affixing the aforesaid stamp, the Magistrate filled the blank space with the following words: “*under section 29 of I D Act 1947* ” by hand. This is not the appropriate manner in which judicial discretion should be exercised. The Magistrate needs to demonstrate such application of mind by giving reasons as to why the process is issued against the accused.

5. Therefore, the impugned order is liable to be quashed and set aside. However, at the same time, it must be considered that if the Magistrate did not fulfil his duty, Respondents No.1 and 2/ original complainant should not be held responsible and should not have to endure any consequences due to the Magistrate’s failure.

6. As a result, the impugned order dated 16 October 2018 of issuance of a process, in C.C. No.502860/SS/2018, pending before

the learned Additional Chief Metropolitan Magistrate, 5th Court, Dadar, Mumbai, is quashed and set aside, and the learned Magistrate is directed to pass an order afresh on its own merits in accordance with law, expeditiously and as far as possible within three months from the date of receipt of this order.

7. The application stands disposed of. It goes without saying that, if necessary, the applicants are free to seek legal recourse for their grievances, if the occasion so arises. It is made clear that this Court has not examined the merits of the case and all contentions of the parties are left open.

R. N. LADDHA, J.